

1 JUDGE CHACHKIN: Any objections?

2 MR. ARONOWITZ: Your Honor, I would just one  
3 question just to clarify. On the face of this, I don't see  
4 a filing date, and I'm assuming, and I want to make sure we  
5 are correct because our file dates or file numbers are  
6 missing from this application. On page 11 of that exhibit  
7 there is a certification that includes the date 7-31-95.  
8 And I just want to make sure that's the filing date.

9 MR. WERLINGER: I'm sorry, page?

10 JUDGE CHACHKIN: What page?

11 MR. WERLINGER: Mr. Aronowitz, what --

12 MR. ARONOWITZ: On page 11.

13 JUDGE CHACHKIN: Eleven.

14 MR. ARONOWITZ: What is referenced as page 11 of  
15 Attachment 10, I just want to make sure I have the date  
16 correct on this.

17 MR. WERLINGER: Actually, the BP number, Your  
18 Honor, is 950804AE.

19 JUDGE CHACHKIN: 0804?

20 MR. WERLINGER: Yes. So it was actually filed  
21 August 4th.

22 JUDGE CHACHKIN: August 4, 1995.

23 MR. WERLINGER: BP950804AM.

24 MR. ARONOWITZ: We have no objections, Your Honor.

25 JUDGE CHACHKIN: All right. Chameleon Appendix 10

1 is received.

2 (The document referred to,  
3 having been previously marked  
4 for identification as  
5 Chameleon Appendix 10, was  
6 received into evidence.)

7 MR. WERLINGER: Your Honor, Appendix No. 11 is a  
8 19-page response under my signature to the letter of inquiry  
9 dated July 25, 1995, from Mr. Eads.

10 JUDGE CHACHKIN: The document described is marked  
11 for identification as Chameleon Appendix 11.

12 (The document referred to was  
13 marked for identification as  
14 Chameleon Appendix 11.)

15 JUDGE CHACHKIN: Any objection?

16 MR. ARONOWITZ: Your Honor, I believe that is Mass  
17 Media Bureau Exhibit 5. Just for duplication purposes, I  
18 want to make sure we are on the same page on that.

19 MR. WERLINGER: Yes, sir, you are right.

20 MR. ARONOWITZ: Okay.

21 MR. WERLINGER: I apologize.

22 MR. ARONOWITZ: So this is already in?

23 MR. WERLINGER: Yes, sir it is. Pardon me.

24 MR. ARONOWITZ: So you will withdraw that?

25 MR. WERLINGER: I'll withdraw that, yes, because

1 it's already here.

2 JUDGE CHACHKIN: Appendix 11 is not being offered  
3 because it's a duplicate of an exhibit already in evidence.

4 MR. WERLINGER: Pardon me, Your Honor. I misread  
5 my notes.

6 Appendix 12 is a one-page document dated August  
7 11, pardon me, it's a two-page document, under the signature  
8 of Larry Eads.

9 JUDGE CHACHKIN: The document described is marked  
10 for identification s Chameleon Appendix 12.

11 (The document referred to was  
12 marked for identification as  
13 Chameleon Appendix No. 12.)

14 JUDGE CHACHKIN: Any objection?

15 MR. ARONOWITZ: No, Your Honor.

16 JUDGE CHACHKIN: Appendix 12 is received.

17 (The document referred to,  
18 having been previously marked  
19 for identification as  
20 Chameleon Appendix No. 12, was  
21 received into evidence.)

22 MR. WERLINGER: Appendix 13, Your Honor, is a copy  
23 of the FCC Report No. A-198, released September 6, 1995.

24 JUDGE CHACHKIN: The document described is marked  
25 for identification as Chameleon Appendix 13.

1 (The document referred to was  
2 marked for identification as  
3 Chameleon Appendix No. 13.)

4 JUDGE CHACHKIN: Any objection?

5 MR. ARONOWITZ: No, Your Honor.

6 JUDGE CHACHKIN: Appendix 13 is received.

7 (The document referred to,  
8 having been previously marked  
9 for identification as  
10 Chameleon Appendix No. 13, was  
11 received into evidence.)

12 MR. WERLINGER: Your Honor, I notice my  
13 nomenclature was wrong on that application number. It is  
14 950804AC instead of AE. My recollection was incorrect. I  
15 apologize.

16 JUDGE CHACHKIN: The date is the same?

17 MR. WERLINGER: The date is the same, yes.

18 JUDGE CHACHKIN: All right.

19 MR. WERLINGER: Just for clarification.

20 Your Honor, Appendixes 14 and 15 have already been  
21 offered and accepted as exhibits of the Bureau.

22 JUDGE CHACHKIN: All right. Go ahead.

23 MR. WERLINGER: Exhibit No. 16, or Appendix No. 16  
24 is a one-page letter under the signature of then acting  
25 chief Linda Blair of the Audio Services Division, dated

1     October 1, 1995.

2             JUDGE CHACHKIN:  The document described is marked  
3     for identification as Chameleon Appendix 16.

4                     (The document referred to was  
5                     marked for identification as  
6                     Chameleon Appendix No. 16.)

7             JUDGE CHACHKIN:  Any objection?

8             MR. ARONOWITZ:  No, Your Honor.

9             JUDGE CHACHKIN:  Appendix 16 is received.

10                    (The document referred to,  
11                    having been previously marked  
12                    for identification as  
13                    Chameleon Appendix No. 16, was  
14                    received into evidence.)

15             MR. WERLINGER:  Your Honor, Appendixes 17 and 18  
16     are copies of the asset purchase agreement and the lease  
17     agreement, and they have already been offered by the Bureau  
18     and accepted.

19             JUDGE CHACHKIN:  All right.

20             MR. WERLINGER:  Appendix No. 19 is the assignment  
21     of the lease from Chameleon to Landrum Enterprises.  It is a  
22     three-page document.

23             JUDGE CHACHKIN:  The document described is marked  
24     for identification as Chameleon Appendix 19.

25     //

1 (The document referred to was  
2 marked for identification as  
3 Chameleon Appendix 19.)

4 JUDGE CHACHKIN: Any objection?

5 MR. ARONOWITZ: Your Honor, just a question.

6 I'm assuming that this was executed? Do you have  
7 an executed copy?

8 MR. WERLINGER: Yes, sir, it was executed.

9 JUDGE CHACHKIN: You don't have an executed copy,  
10 though.

11 MR. WERLINGER: Your Honor, I don't know why this  
12 is not a copy of the executed copy.

13 JUDGE CHACHKIN: It says draft of 3-2-95, so it  
14 doesn't appear to be an executed copy. It appears to be a  
15 draft of an agreement.

16 MR. WERLINGER: Yes, sir. This was presented in  
17 error, Your Honor. I can substitute -- this is the  
18 assignment that was executed.

19 MR. ARONOWITZ: Mr. Werlinger, this was executed.

20 MR. WERLINGER: Yes, it was.

21 MR. ARONOWITZ: This is -- in other words, if you  
22 came in with an executed copy, this is --

23 MR. WERLINGER: It would be identical to this.

24 MR. ARONOWITZ: I just wanted a clarification. I  
25 have no objection, Your Honor.

1 JUDGE CHACHKIN: And it would contain --

2 MR. WERLINGER: I would contain the signatures of  
3 myself and Jake Landrum, sir.

4 JUDGE CHACHKIN: All right, if the Bureau wishes,  
5 I'm sure Mr. Werlinger will make available to them a copy of  
6 the executed document and you can compare it. But since  
7 there is no objection I will receive Chameleon Appendix 19.

8 (The document referred to,  
9 having been previously marked  
10 for identification as  
11 Chameleon Appendix No. 19.)

12 MR. WERLINGER: As a matter of course, Your Honor,  
13 I will do that. I will give you -- okay.

14 Your Honor, Exhibit No. 20 is a copy of the  
15 sublease between Chameleon Radio Corporation -- and let me  
16 make sure this is a signed copy -- yes, this is an executed  
17 copy. It is a 15-page document.

18 JUDGE CHACHKIN: The document described is marked  
19 for identification as Chameleon Appendix 20.

20 (The document referred to was  
21 marked for identification as  
22 Chameleon Appendix No. 20.)

23 JUDGE CHACHKIN: Any objection?

24 MR. ARONOWITZ: Your Honor?

25 JUDGE CHACHKIN: Yes. Is this a duplicate?

1 MR. ARONOWITZ: That's exactly what I was looking.  
2 It appears to be a duplicate of Bureau Exhibit 4, and I just  
3 want to make sure.

4 MR. WERLINGER: Let me -- you are right, Mr.  
5 Aronowitz. I apologize.

6 MR. ARONOWITZ: No problem.

7 JUDGE CHACHKIN: All right, Appendix 20 is not  
8 being introduced since it's a duplicate of an exhibit  
9 previously received.

10 MR. WERLINGER: Your Honor, Appendix No. 21 is a  
11 copy from the Commission's files of a special temporary  
12 authorization request for Radio Station KVCJ in Canton,  
13 Texas, that was prepared by me, and presented to the  
14 Commission on October 29, 1993.

15 JUDGE CHACHKIN: The document described is marked  
16 for identification as Chameleon Appendix 21.

17 (The document referred to was  
18 marked for identification as  
19 Chameleon Appendix No. 21.)

20 JUDGE CHACHKIN: Any objection?

21 MR. ARONOWITZ: No, Your Honor.

22 JUDGE CHACHKIN: Chameleon Appendix 21 is  
23 received.

24 //

25 //



1 (The document referred to,  
2 having been previously marked  
3 for identification as  
4 Chameleon Appendix No. 21, was  
5 received into evidence.)

6 MR. WERLINGER: Okay, Your Honor, Appendix No. 22  
7 is already -- has already been offered by the Commission.

8 JUDGE CHACHKIN: All right.

9 MR. WERLINGER: And the others, the remaining, I  
10 think, Your Honor, you have already ruled on, I believe.

11 JUDGE CHACHKIN: All right.

12 MR. WERLINGER: Yes, sir.

13 JUDGE CHACHKIN: So, all right, that completes  
14 your exhibits?

15 MR. WERLINGER: Yes, Your Honor.

16 JUDGE CHACHKIN: All right. Are we ready to  
17 proceed --

18 MR. ARONOWITZ: One moment, Your Honor?

19 JUDGE CHACHKIN: Yes.

20 MR. ARONOWITZ: Your Honor, Mr. Werlinger, in  
21 your, I think, Attachment 23 or Appendix 23, as we are  
22 calling them, and just to make sure that we are on the same  
23 page, I'm not sure that you addressed that. I just wanted  
24 to make sure that you did or did not intend to address that.

25 MR. WERLINGER: Yes, I did. Pardon me.

1 JUDGE CHACHKIN: No problem.

2 MR. WERLINGER: Your Honor, Appendix No. 23 is a  
3 document which is -- it's page 413 out of Webster's  
4 Riverside Dictionary in which the definition and terms of  
5 the word "lose" are offered.

6 JUDGE CHACHKIN: All right, the document described  
7 is marked for identification as Chameleon Appendix 23.

8 (The document referred to was  
9 marked for identification as  
10 Chameleon Appendix No. 23.)

11 JUDGE CHACHKIN: Any objection?

12 MR. ARONOWITZ: No, Your Honor.

13 JUDGE CHACHKIN: Chameleon Appendix 23 is  
14 received.

15 (The document referred to,  
16 having been previously marked  
17 for identification as  
18 Chameleon Appendix No. 23, was  
19 received into evidence.)

20 JUDGE CHACHKIN: Just to make the record clear,  
21 Appendix 22 was a duplicate of material previously received,  
22 and 24, 25, 26 and 27 is material which I have rejected.

23 //

24 //

25 //

1 (The documents referred to  
2 were marked for identification  
3 as Chameleon Appendix Nos. 24  
4 through 27, inclusive, and  
5 were rejected.)

6 JUDGE CHACHKIN: Now are we ready to proceed?

7 MR. ARONOWITZ: Your Honor, we may proceed, or if  
8 you would like, and this is at your discretion entirely, we  
9 may go ahead and, if you would like, we could take a break.  
10 I can bring back the -- whatever it is that I forgot. I'm  
11 sorry.

12 JUDGE CHACHKIN: The answers to --

13 MR. ARONOWITZ: Oh, the admissions, right.

14 JUDGE CHACHKIN: -- admissions.

15 MR. ARONOWITZ: Right. I can either go get those  
16 now, and we can bring those in.

17 JUDGE CHACHKIN: Was it the admissions or the  
18 interrogatories?

19 MR. ARONOWITZ: It was the admissions. I believe  
20 it was what we have --

21 JUDGE CHACHKIN: Oh, you're right. All right.

22 MR. ARONOWITZ: So we can either do that, or I can  
23 go into the cross examination at this point at Your Honor's  
24 discretion.

25 JUDGE CHACHKIN: Mr. Werlinger, do you have any --

1 MR. WERLINGER: A break now would be nice.

2 JUDGE CHACHKIN: All right. How long a break do  
3 you want?

4 MR. ARONOWITZ: About 15 - 20 minutes.

5 JUDGE CHACHKIN: All right, we will take a break.

6 MR. ARONOWITZ: Just long enough for me to go  
7 around the corner, make some xeroxes and come back.

8 MR. WERLINGER: Very well.

9 JUDGE CHACHKIN: All right. We will take a 15-  
10 minute break.

11 MR. ARONOWITZ: Thank you, Your Honor.

12 JUDGE CHACHKIN: And we will return at 25 to.

13 (Whereupon, a recess was taken.)

14 JUDGE CHACHKIN: Mr. Aronowitz. He's not here.

15 MS. BERTHOT: He is still making better copies.  
16 He will be back shortly.

17 JUDGE CHACHKIN: All right. We will go off the  
18 record until he comes back.

19 (Whereupon, a recess was taken.)

20 JUDGE CHACHKIN: Mr. Aronowitz?

21 MR. ARONOWITZ: Your Honor?

22 JUDGE CHACHKIN: Yes.

23 MR. ARONOWITZ: If I might, I would like to --

24 JUDGE CHACHKIN: Thank you.

25 MR. WERLINGER: Thank you.

1 JUDGE CHACHKIN: Now, this is part of --

2 MR. ARONOWITZ: And this was -- Your Honor, we  
3 would like marked for identification, and I will see if I  
4 can't do this efficiently. We would like marked for  
5 identification as Mass Media Bureau Exhibit 17.

6 JUDGE CHACHKIN: Yes.

7 MR. ARONOWITZ: Two documents. One being an  
8 eight-page document, Mass Media Bureau's first request for  
9 admission of fact and genuineness of documents, and a second  
10 being a seven-page document entitled "Response to First  
11 Request for Admissions."

12 JUDGE CHACHKIN: Well, why don't we just make  
13 this, this is what? Seventeen. A will be the request and B  
14 will be the response, so we won't be confused.

15 MR. ARONOWITZ: Thank you, Your Honor.

16 MR. ARONOWITZ: And we move for the introduction  
17 of those documents into evidence, 17-A and 17-B.

18 JUDGE CHACHKIN: Any objection?

19 MR. WERLINGER: No, Your Honor.

20 JUDGE CHACHKIN: All right, your Exhibits 17-A and  
21 B will be marked for identification and received in  
22 evidence.

23 //

24 //

25 //

1 (The documents referred to  
2 were marked for identification  
3 as Mass Media Bureau Exhibit  
4 No. 17-A and B, and were  
5 received into evidence.)

6 JUDGE CHACHKIN: There is attached, as you know,  
7 to 17 a letter from Don Werlinger. Is that part of this?  
8 That was originally attached to your --

9 MR. ARONOWITZ: That was originally attached to  
10 the -- in 17-A or B.

11 JUDGE CHACHKIN: Yes, is that still in?

12 MR. ARONOWITZ: I'm sorry, I'm confused, Your  
13 Honor.

14 JUDGE CHACHKIN: Well, if you look at 17, you have  
15 your request for admissions.

16 MR. ARONOWITZ: Right.

17 JUDGE CHACHKIN: And then you had a two-page  
18 letter to Mr. Stewart from Mr. Werlinger.

19 Now, is that supposed to be part of 17 or what?

20 MR. ARONOWITZ: If I can take a moment, I believe  
21 that's in.

22 Excuse me again, Your Honor. Just so I am clear  
23 what we are talking about.

24 MR. WERLINGER: I believe that letter is 16, is it  
25 not?

1 MR. ARONOWITZ: And you're talking about 17-B, No.  
2 6?

3 JUDGE CHACHKIN: No, what I am talking about is a  
4 letter that was originally presented. It contained Mass  
5 Media Bureau's request for admissions of fact, and also, at  
6 least my copy has a two-page document signed by Don  
7 Werlinger, a letter of September 29, 1995, to Mr. Stewart.  
8 That was part of the exhibit.

9 MR. WERLINGER: I show that as No. 16.

10 MR. ARONOWITZ: Sixteen.

11 JUDGE CHACHKIN: That was part of 17. Maybe the  
12 copy that was sent to me, I haven't done anything.

13 MR. ARONOWITZ: That may be --

14 JUDGE CHACHKIN: I don't know. I'm just asking.

15 MR. ARONOWITZ: I will be honest with Your Honor,  
16 I don't have one.

17 JUDGE CHACHKIN: I will show you what I have and  
18 you can --

19 MR. ARONOWITZ: Maybe it's a xeroxing error or  
20 something.

21 JUDGE CHACHKIN: Well, it was part of -- do you  
22 want to see this, Mr. Werlinger?

23 MR. WERLINGER: Yes, sir.

24 JUDGE CHACHKIN: Sure. This is what was given to  
25 me. Now, it may very well be this is something in another

1 exhibit.

2 MR. ARONOWITZ: This was part of 16.

3 MR. WERLINGER: Yes, mine shows it to be 16.

4 JUDGE CHACHKIN: All right. Well, it was part of  
5 17 for me.

6 MR. ARONOWITZ: It looks like it was a xeroxing  
7 error, Your Honor.

8 JUDGE CHACHKIN: All right, fine. I'll just  
9 ignore it.

10 All right, then, we're ready to go, I guess.

11 Yes, I have the same exhibit in 16 and 17. I  
12 guess that's --

13 MR. ARONOWITZ: I think it was a xerox error.  
14 It's hard enough finding a machine that works.

15 MR. ARONOWITZ: Mr. Werlinger, I am now going to  
16 ask you --

17 JUDGE CHACHKIN: Wait, wait a minute. He has to  
18 take the stand. Wait a minute.

19 MR. ARONOWITZ: I'm a little ahead of myself, Your  
20 Honor.

21 JUDGE CHACHKIN: He has to be sworn in.  
22 Are we ready for Mr. Werlinger?

23 MR. ARONOWITZ: Oh, I am obviously.

24 JUDGE CHACHKIN: Mr. Werlinger, would you step  
25 forward, please?



1 MR. WERLINGER: Yes, sir.

2 JUDGE CHACHKIN: Raise your right hand, please?

3 Whereupon,

4 MICHAEL D. WERLINGER

5 having been first duly sworn, was called as a  
6 witness herein and was examined and testified as follows:

7 JUDGE CHACHKIN: Please be seated.

8 State your name and address for the record?

9 THE WITNESS: May I bring a note pad with me?

10 JUDGE CHACHKIN: Yes. Do you have any objection  
11 to him bringing a note pad with him?

12 MR. ARONOWITZ: No, Your Honor.

13 MS. BERTHOT: No, we would also like him to bring  
14 his copy of his exhibit and ours.

15 JUDGE CHACHKIN: Now, would you state your name  
16 and address for the record?

17 THE WITNESS: My name is Michael Don Werlinger.  
18 Last name is spelled W-E-R-L-I-N-G-E-R. I reside at 811  
19 Skimmer, S-K-I-M-M-E-R, Court, in Sugar Land, two words,  
20 common spelling, in Sugar Land, Texas.

21 (Pause.)

22 JUDGE CHACHKIN: Go ahead.

23 MR. ARONOWITZ: Mr. Werlinger, I'm going to  
24 ask you a series of questions for awhile now, and just one  
25 thing I'll say is, you know, if I am unclear about anything,

1 please ask and take the time that you need to answer the  
2 question.

3 JUDGE CHACHKIN: I should also tell you, Mr.  
4 Werlinger, before the questions begin, you are wearing two  
5 hats. You are wearing the hat, first of all, you're wearing  
6 the hat of a witness, and, secondly, you are wearing the hat  
7 which would normally be served by counsel. So if you want  
8 to object to a question, you can, and that will -- all  
9 right, let's proceed.

10 CROSS EXAMINATION

11 BY MR. ARONOWITZ:

12 Q Mr. Werlinger, with respect to the -- the first  
13 series of questions that I'm going to ask are to the first  
14 issue with respect to the loss of the site at Bay City, the  
15 alleged loss of the site at Bay City. So this is where  
16 these set of questions are coming from.

17 You state in your direct testimony that it was  
18 Chameleon's intent to move to Houston; is that correct, when  
19 it acquired the station?

20 A Okay. Yeah, if the -- it was my intent to move,  
21 in acquiring the radio station, to move it to Houston, is  
22 that your question?

23 Q Correct.

24 A Yes, sir, that was my intent.

25 Q And you intended to do that through what is

1 commonly known as a 301 application to change facilities in  
2 a community of license change; is that correct?

3 A That is correct, sir.

4 Q And you state that after you acquired KFCC a set  
5 of events made that impossible; in other words, moving to  
6 Houston via a 301 community of license change?

7 A No, sir, that -- it did not make that impossible.  
8 It made the timing of that event. I always intended to and  
9 did in fact file a Form 301 request to change the city of  
10 license for the radio station within 90 days of grant of the  
11 original STA.

12 So the direct answer to the question is no, that  
13 series of events did not prevent me from filing a 301. I  
14 did do that.

15 Q All right. However, before filing a 301 in a  
16 community of license change, a set of events occurred  
17 requiring you to do something other than to file a 301 in a  
18 community of license change to effectuate this move; is that  
19 correct?

20 A A set of -- a set of events occurred that required  
21 me to seek the STA. Is that what you are getting at?

22 Q Absolutely.

23 A Okay. Yes.

24 Q So you needed to -- before filing a 301 community  
25 of license change, you needed to file an STA?

1           A     That is correct.

2           Q     Right. And when you filed the STA, and we have  
3     the STA here, you said that the -- what was the basis for  
4     the STA?

5           A     The basis of the STA was that we were no longer  
6     utilizing the Bay City site. My intent all along was to  
7     never make use of the Bay City cite. We abandoned the Bay  
8     City site the day we closed on the purchase of the radio  
9     station, took the station dark that very day, and as far as  
10    we were concerned originally we were not going to use the  
11    site and the station. We would seek permission to remain  
12    silent until the 301 was approved, gone through cutoff and  
13    actually approved.

14                The set of events that required us to seek the  
15    STA, I have been very clear about from the very beginning.  
16    The STA was to continue the programming that we had been  
17    providing, which was no longer being provided on the  
18    facility we had under LMA.

19           Q     But you knew from the outset of acquiring KFCC  
20    that an FCC Form 301 -- the filing of a FCC Form 301 in a  
21    community of license change application was the proper way  
22    to effectuate the community of license change?

23           A     Without question.

24           Q     Nevertheless, when you acquired KFCC, if I  
25    understood you correctly, you said you abandoned the

1 authorized site. Let us call it the Bay City site.

2 A Perhaps that was a -- under contractor, I  
3 abandoned the site. It was an agreement that the previous  
4 licensee or the licensee of the FM would remain there and  
5 that I would leave, and so I did do that.

6 JUDGE CHACHKIN: Didn't the licensee have both an  
7 AM and FM?

8 THE WITNESS: He did, sir.

9 JUDGE CHACHKIN: And how did he operate his AM?

10 THE WITNESS: Well, the AM, Your Honor, was -- the  
11 AM was the original radio station on that site was put on  
12 the air in 1946. And the FM was acquired in 1985, and was  
13 moved to the site. When we originally negotiated the sale,  
14 again, it was my intent all along to change, seek the change  
15 of city of license, which, you know, the 307(b) questions  
16 are answered quite adequately, I think.

17 And so I never -- since I never intended to be in  
18 Bay City, he had the FM there, he wanted to remain there,  
19 and so we simply -- there is this awkward situation wherein  
20 the building itself is part of the -- is real property that  
21 is owned by the licensee, and the land that it sits on is  
22 leased. Hence, this awkward situation with leases and  
23 subleases.

24 But he intended to stay, and I intended to leave,  
25 and that's what happened.

1 JUDGE CHACHKIN: So you just wanted Bay City for  
2 its outlet, it's broadcast outlet?

3 THE WITNESS: Yes, sir.

4 JUDGE CHACHKIN: What's why you wanted it.

5 THE WITNESS: Absolutely. I've never -- I have  
6 never minced any words about that. I acquired the radio  
7 station with the intent of moving it, and not having it  
8 either licensed to or serving Bay City anymore.

9 BY MR. ARONOWITZ:

10 Q So, in fact, you really didn't want a Bay City  
11 outlet. You just wanted a frequency.

12 A Well, yes, sir. That's a --

13 Q So you never had any intention of serving Bay  
14 City?

15 A Well, in terms of a minimum amount of public  
16 service time if the radio station was going to be on the  
17 air, we would have done that.

18 But, again, my original intent was simply to turn  
19 the radio station off and keep it dark.

20 Q So you had no intent to serve Bay City really?

21 A Well, no. My intent was -- my intent was to take  
22 the radio station dark and to keep it dark until I had a 301  
23 approved, which is a common -- you know, which is a common  
24 practice, and I expected would have been granted. There are  
25 many dark AM radio stations in Texas.

1 Q We will return to that in a minute.

2 So you came in and you intended to take it dark,  
3 and you basically did that, you abandoned it?

4 A Yes, sir, I did.

5 Q Okay. And in the STA you stated that the site was  
6 lost and that was the need for the STA.

7 A I said specifically due to the loss of the  
8 license.

9 Q Due to the loss of the site.

10 A I didn't elaborate. Obviously, I should have.

11 Q But you didn't mention anything about -- within  
12 the STA you didn't mention anything about moving to Houston  
13 or your intent with the station. You just merely said that  
14 the site was lost.

15 A No, Mr. Aronowitz, I did not. But I very clearly  
16 demonstrated in the exhibits that I presented -- in the  
17 exhibit that I presented it was quite clear that we were  
18 relocating the site into the Houston metropolitan area.

19 Q Okay, why don't we turn to those. Why don't we  
20 turn to the 4-21 STA request, which is Mass Media Bureau  
21 Exhibit 6.

22 This is the STA request we're talking about,  
23 correct?

24 A That is correct, sir.

25 Q Okay. And in this -- there are, and we will go

1 through the application, but I just want to take it in order  
2 here.

3 On the engineer -- on page 3, which is, in  
4 essence, starting the narrative description of the STA, you  
5 have the engineering statement. In the first paragraph the  
6 engineering statement, and you have on the second line a set  
7 of coordinates.

8 A Yes, sir.

9 Q And what are those set of coordinates? What site  
10 does that set of coordinates reflect?

11 A North latitude 29 30 10, west longitude 95 32 22.

12 Q And that would be the Bay City site?

13 A No, sir.

14 Q What we're calling the Bay City site?

15 A No, sir.

16 The Bay City site is -- well, I'm sorry. I can't  
17 find it here. This is a typographical error, Mr. Aronowitz.  
18 The Bay City site is at 28 58 10, and 95 something. This  
19 was a typographical error.

20 Q I'm confused, and I want to -- and I want to make  
21 sure I understand this correctly.

22 In the first paragraph under the heading  
23 "Engineering Statement," there is a set of coordinates that  
24 purports to be the authorized Bay City site, and you are  
25 saying that those coordinates -- is that correct, that those



1 coordinates purport to be the Bay City site?

2 A It does purport to be the Bay City site, and I --

3 Q Which in fact is not the Bay City site?

4 A It's in fact not the Bay City site.

5 JUDGE CHACHKIN: What site is it?

6 THE WITNESS: It is the -- they are the  
7 coordinates, Your Honor, for the proposed STA site. It was  
8 simply a typographical error. I, in producing this  
9 document --

10 JUDGE CHACHKIN: Well, you say it was a  
11 typographical error, but don't you say in your first  
12 sentence that you currently operate from a licensed site in  
13 Bay City and you give the coordinates?

14 THE WITNESS: Yes, sir.

15 JUDGE CHACHKIN: Well, if you were currently  
16 operating from, the only place you were talking about is Bay  
17 City. That's the only place you had a license for at that  
18 time.

19 THE WITNESS: When I was preparing this document,  
20 Your Honor, and when I do engineering work, as I have done  
21 for many years, occasionally you make a mistake and put a  
22 wrong set of coordinates down, and that's precisely what  
23 happened here.

24 JUDGE CHACHKIN: Well, how could it be a wrong set  
25 of coordinates? Where else did you operate from? What